

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7038**

**BILL NUMBER: SB 338**

**NOTE PREPARED: Jan 28, 2006**

**BILL AMENDED: Jan 26, 2006**

**SUBJECT:** False Identification and Criminal Gang Enhancement.

**FIRST AUTHOR:** Sen. Merritt

**FIRST SPONSOR:**

**BILL STATUS:** CR Adopted - 1<sup>st</sup> House

**FUNDS AFFECTED:** X **GENERAL**  
X **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) *Class A Misdemeanor:* The bill makes it a Class A misdemeanor to possess, produce, or distribute a document not issued by a government entity that purports to be a government-issued identification.

*Fixed-Term Sentence for Gang-Affiliated Crime:* It provides that the sentence imposed on a person for committing a felony may be enhanced if the trier of fact determines that the person was a member of a criminal gang at the time of the offense and committed the offense at the direction of or in affiliation with a criminal gang. It also provides that the enhancement must equal the sentence for the felony the person is convicted of and that the enhancement may not be suspended.

**Effective Date:** July 1, 2006.

**Explanation of State Expenditures:** *Fixed-Term Sentence for Gang-Affiliated Crime:* State expenditures would increase if an offender is incarcerated in a state prison for a longer period of time. The bill increases the length of stay in a state correctional facility of an offender found to have committed a crime at the direction of or in affiliation with a criminal gang by imposing a fixed-term sentence equal to the length of the underlying sentence (or the longest sentence in the case of multiple convictions). The fixed-term sentence may not be suspended and it would be served at the completion of the term for the underlying crime. There are no data available to indicate how many offenders may be subject to the sentence enhancement.

*Background on Fixed-Term Sentence for Gang-Affiliated Crime:* Under the bill, the judge or the jury could impose a sentence that doubles the statutory sentence range shown in the table below. Increases in

expenses result from the actual time served, rather than the term imposed by the court. The difference between the length of sentence uttered by a court and the time served depends on the credit time earned by or withdrawn from the offender.

Felony Class	Statutory Sentence Range
A	20-50 years
B	6-20 years
C	2-8 years
D	6 months to 3 years, or reduction to a Class A misdemeanor

The average expenditure to house an adult offender was \$20,977 in FY 2005. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$62,292.

**Explanation of State Revenues:** (Revised) *Class A Misdemeanor:* There are no data available to indicate how many offenders may be convicted of the Class A misdemeanor for possessing, producing, or distributing a document not issued by a government that purports to be a government-issued identification. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

**Explanation of Local Expenditures:** *Class A Misdemeanor:* A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

**Explanation of Local Revenues:** *Class A Misdemeanor:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs' Association, Department of Correction.

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